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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,560	07/26/2001	Santiago Rivera	007198-414	5481

7590 07/08/2002

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EXAMINER

KIM, CHRISTOPHER S

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 07/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/912,560

Applicant(s)

RIVERA ET AL.

Examiner

Christopher S. Kim

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3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Oath/Declaration*

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It claims the priority to a non-existing Provisional Patent Application 477,568.

2. Letter filed January 17, 2002 for correction of inventorship is acknowledged. The request fails to comply with 37 CFR 1.48. See MPEP 201.03.

### *Drawings*

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "storage space of said fluid storage space is variable by a spring biased compartment" recited in claim 13; the "flexible rubber flap" recited in claim 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Objections***

4. Claims 15 and 16 are objected to because of the following informalities: in claim 15, line 1, "whereinsaid" should read --wherein said--; in claim 16, line 2, "is formed is formed" should read --is formed--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation "the storage space" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "the junction" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 16 recites the limitation "the feeding conduit" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-12 and 18-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Conklin (3,713,585).

Conklin discloses shower apparatus including: a shower head including a water inlet (15), a water outlet (28'), a water passageway (13, 14), a feeding aperture (20); a feeding mechanism including a pump (22', 24); a solid wall-mountable housing (11); an upwardly extending conduit (19). The pump includes a spring bias (26), a first and a second alternate outlets (21, 22).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin (3,713,585).

With respect to claim 13, Conklin discloses the limitations of the claimed invention with the exception of the spring biased compartment. A spring biased flower supply is well known in the art. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a spring biased compartment to the device of Conklin to provide positive pressure to the pump.

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With respect to claim 16, Conklin discloses a unidirectional flow valve (22) formed at the junction between the feeding conduit (19) and the pump (22', 24) rather than at the junction between the feeding conduit (19) and the water passageway (13). Providing the unidirectional flow valve at the junction between the feeding conduit and the water passageway is a mere relocation of parts. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have located the unidirectional flow valve at the junction between the feeding conduit and the water passageway, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

With respect to claim 17, Conklin discloses a unidirectional flow valve (22) which is a ball check valve rather than a flexible rubber flap. Flexible rubber flap check valves are well known in the art. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have replaced the ball check valve of Conklin with a flexible rubber flap to minimize parts.

11. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin (3,713,585) in view of Consaul (4,019,658).

Conklin discloses the limitations of the claimed invention with the exception of the selectable outlet. Consaul discloses a selectable outlet (92, 140, 180). It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a selectable outlet to the device of Conklin as taught by Consaul to dispense undiluted products.

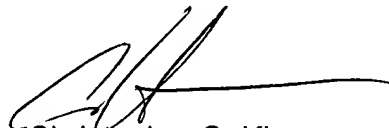
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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry C. Yuen can be reached on (703) 308-1946. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7766 for regular communications and (703) 308-7766 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Christopher S. Kim  
Examiner  
Art Unit 3752

CK  
June 29, 2002